MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. BOX 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

JACK B. BLUMENFELD
302 351 9291
302 425 3012 FAX
jblumenfeld@mnat.com

August 6, 2007

The Honorable Gregory M. Sleet
United States District Court
844 King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: *In re Metoprolol Succinate Direct Purchaser Antitrust Litigation*
C.A. No. 06-52 (GMS)

In re Metoprolol Succinate End-Payor Antitrust Litigation
C.A. No. 06-71 (GMS)

Dear Chief Judge Sleet:

Plaintiffs' counsel in C.A. 06-52-GMS has advised Your Honor of the Federal Circuit's decision in *In re Metoprolol Succinate Patent Litigation*, No. 2006-1254 (Fed. Cir. July 23, 2007). In its decision, the Federal Circuit affirmed the finding of invalidity of the '154 patent for double patenting by a 2-1 decision, with Judge Schall dissenting, and reversed the summary judgment of unenforceability based upon inequitable conduct. That decision removes much of the basis for the antitrust claims in this case. AstraZeneca intends to seek rehearing *en banc* with respect to the double patenting issue. AstraZeneca has moved, in the alternative to its pending motions to dismiss, to stay these antitrust cases pending the outcome of that patent litigation. Under the circumstances, AstraZeneca continues to believe that these cases should be stayed pending the resolution of the patent litigation that forms the basis for the antitrust claims, if they are not dismissed.

In addition, it was not until long after the District Court's January 2006 summary judgment decision and the filing of this litigation that any of the ANDA filers received FDA approval and went on the market with their products. Specifically, on July 31, 2006, Sandoz received final approval of its 25 mg product and tentative approval of its 50, 100 and 200 mg products. Sandoz did not launch its 25 mg product until November 20, 2006 and still has not launched its other products. KV did not receive approval of its 100 and 200 mg products until May 2007, and has only recently launched those products. Andrx has not received any approvals, because the FDA is not approving any Andrx products for reasons unrelated to the litigation. Thus, it plainly was not AstraZeneca's filing of the patent litigation that kept the generic products of the market.

We are prepared to provide whatever additional facts or argument the Court may desire on any of these matters.

Respectfully,

Jack B. Blumenfeld (#1014)

JBB/dlb
cc: Clerk of Court (Via Hand Delivery)
Jeffrey S. Goddess, Esquire (Via Electronic Mail and Hand Delivery)
Linda P. Nussbaum, Esquire (Via Electronic Mail)
Daniel Berger, Esquire (Via Electronic Mail)
Thomas M. Sobol, Esquire (Via Electronic Mail)
Pamela S. Tikellis, Esquire (Via Electronic Mail and Hand Delivery)
Joseph H. Meltzer, Esquire (Via Electronic Mail)
Jeffrey S. Istvan, Esquire (Via Electronic Mail)
Michael M. Buchman, Esquire (Via Electronic Mail)
Jayne A. Goldstein, Esquire (Via Electronic Mial)
1147111